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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

60469-193; OT-5003

## CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300.

on May 17, 2007

Signature

Typed or printed name Theresa M. Palmateer

Application Number

10/520,756

Filed

7/13/2005

First Named Inventor

Leandre ADIFON

Art Unit

3654

Examiner

Eric E. PICO

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

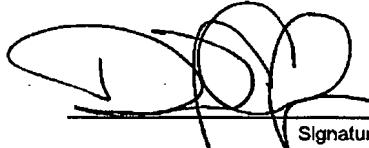
Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96) attorney or agent of record.

Registration number

37,139



Signature

David J. Gaskey

Typed or printed name

(248) 988-8360

Telephone number

 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

May 17, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

\*Total of 1 forms are submitted.

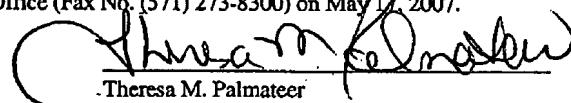
This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Theresa M. Palmateer

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leandre ADIFON, *et al.*  
Serial No. 10/520,756  
PCT Filed: July 18, 2002  
§ 371(c) Date: July 13, 2005  
Art Unit: 3654  
Examiner: Eric E. PICO  
Title: ROOFTOP CONTROL UNIT FOR AN ELEVATOR SYSTEM HAVING A REMOVABLE COVER

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Mail Stop AF  
Commissioner For Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants present this request for pre-appeal brief review because the Examiner has not established a *prima facie* case of anticipation or obviousness against any of Applicants' claims.

JP 2000-177949 ("*Toshiyuki*") is the main reference relied upon by the Examiner for rejecting Applicants' claims. The problem with all of the rejections is that *Toshiyuki* does not have a support base that is distinct from, and secured to, a roof and does not have a cover that is secured to such a support base. Without that, there is no anticipation and no *prima facie* case of obviousness.

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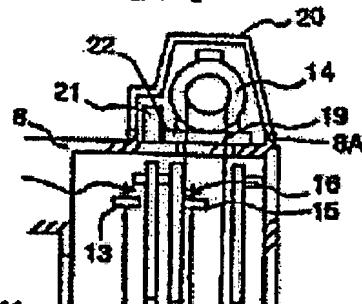
Applicants' claim 19 recites:

19. An elevator system, comprising:

- a cab adapted to carry a load between different levels of a building;
- a machine assembly secured to a roof surface on the building and having a drive sheave that causes movement of at least one elongated tension member such that the cab moves as desired and a motor that moves the drive sheave;
- a cover removably secured over the machine assembly to cover over the machine assembly; and
- a support base that is distinct from and secured to the roof surface, the support base supports the machine assembly, the cover being directly secured to and selectively removable from the support base.

*Toshiyuki* does not include a cover and support base as recited in Applicants' claims. A relevant portion of Figure 2 of *Toshiyuki* is reproduced here for convenience.

【図2】



As can be appreciated from the drawing, the plate 22 (which the Examiner interprets as the claimed support base) is not connected to the cover 20 (which the Examiner interprets as the claimed cover). Instead, the cover 20 is secured directly to the walls 8A that are part of the ceiling (or roof) 8.

Applicants respectfully submit that the projecting walls 8A are not part of a support base as that term is defined in claim 19. Applicants' claimed support base is "distinct from the roof surface" and "supports the machine assembly." Being distinct from the roof surface requires that it be a distinct, separate structure that is not part of the roof. The walls 8A in *Toshiyuki* are part of the ceiling 8 (e.g., are not distinct from the roof). *Toshiyuki* says that the walls 8A are formed at the periphery of an opening 17, which is formed in the ceiling 8. The projecting walls 8A, therefore, are part of the ceiling (or roof) -- not distinct from it. Additionally, the walls 8A do

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not support the machine assembly 14. Therefore, Applicants respectfully submit that the walls 8A cannot reasonably be interpreted as corresponding to Applicants' claimed support base, which supports the machine and is distinct from the roof.

*Toshiyuki*'s plate 22 supports the machine 14 but does not correspond to Applicants' claimed base, either. The cover of Applicants' claim 19 is "directly secured to the support base" and the cover of Applicants' claim 33 is "secured to the support base." There is no contact between *Toshiyuki*'s plate 22 and cover 20. Therefore, the plate 22 cannot be the same as Applicants' claimed base.

The Examiner interprets the projecting walls 8A and the plate 22 of *Toshiyuki* together as corresponding to Applicants' claimed base. *Toshiyuki*'s plate 22 and walls 8A cannot be combined together to be the same as Applicants' support base because that combination cannot satisfy all of the limitations concerning Applicants' claimed support base. Even the proposed interpretation of the plate 22 and walls 8A together constituting a "support base" does not provide an arrangement that is the same as Applicants' claimed support base, which is distinct from the roof. If *Toshiyuki*'s walls 8A are considered part of a support base, then that support base would no longer be distinct from the roof 8. Including the projecting walls 8A into a hypothetical "support base" requires that part of such a support base not be distinct from the roof (i.e., the projecting walls 8A are not distinct from the roof). Applicants' support base is distinct from the roof. Therefore, there is no anticipation.

Further, none of Applicants' claims can be considered obvious because even if *Toshiyuki* were combined with any of the references applied under 35 USC §103 (e.g., *Chida*, *Semple*, *Jones*, or *Kihachiro*), the result would not be what the Examiner contends. None of the references provides the combination of a support base and cover as claimed by Applicants. None of the references provides any indication for how *Toshiyuki*'s plate 22 and walls 8A would be modified to be consistent with Applicants' claims. Even if the proposed combinations could be made, there still would not be a support base consistent with Applicants' claims. Therefore, there is no *prima facie* case of obviousness.

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Withdrawal of each of the §102 and §103 rejections based on *Toshiyuki* is, therefore, both warranted and earnestly solicited.

Respectfully submitted,  
**CARLSON, GASKEY & OLDS**

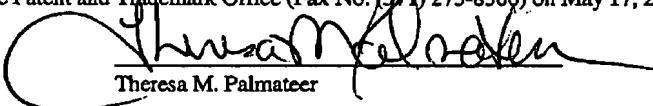


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Dated: May 17, 2007

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Theresa M. Palmateer

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